

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

RICKY BARNARD JUSTICE	§	
VS.	§	CIVIL ACTION NO. 9:16cv94
WARDEN HARRIS, ET AL.	§	

ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Ricky Barnard Justice, an inmate at the Polunsky Unit, proceeding *pro se*, brought the above-styled lawsuit.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff's motion for injunctive relief be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes plaintiff's objections are without merit. Plaintiff has failed to show the existence of a substantial threat of irreparable injury. As set forth in the Report, plaintiff's claims were speculative and the motion is moot following his transfer to another facility. *See Herman v. Holiday*, 238 F.3d 660, 665 (5th Cir. 2001); *Cooper v. Sheriff, Lubbock County, Texas*, 929 F.2d 1078, 1084 (5th Cir. 1991). Additionally, plaintiff has failed to show a substantial likelihood of success on the merits. It is unclear whether plaintiff exhausted the

prison grievance procedure prior to filing this action, as required by the PLRA. Plaintiff has also failed to show injury related to his claims. Further, plaintiff's medical claims are a disagreement with medical professionals over the proper course of treatment and fail to state a claim upon which relief may be granted.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. It is therefore

ORDERED that plaintiff's motion for injunctive relief is **DENIED**.

So **ORDERED** and **SIGNED** this **22** day of **September, 2017**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge